IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.1191 of 2007

R.Babu @ Periyapoochi .. Petitioner

Vs

1. The State of Tamil Nadu,
   Rep. by its Secretary to Govt.,
   Prohibition & Excise Dept.,
   Fort St. George, Chennai-9.

2. The Commissioner of Police
   Coimbatore District, Coimbatore. .. Respondents

Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus as stated therein praying to direct the Respondents to produce the petitioner (i.e) R.Babu @ Periyapoochi, now confined in Central Prison, Coimbatore this Honourable Court and set him at liberty by calling for the records pertaining to the order of Detention passed by the 2nd respondent dated 05.03.2007 under Ref.No.18/G/IS/2007.

For Petitioner : Mr.R.Thanjan
For Respondents: Mr.N.R.Elango
Additional Public Prosecutor

O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The petitioner, aggrieved by the order of detention dated 28.2.2007 passed by the second respondent in Ref.No.18/G/IS/2007 branding him as Goonda under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), has filed this petition seeking issue of Writ of Habeas Corpus to call for the records relating the order of detention, to quash the same and to direct the respondents to produce him before this Court and set him at liberty.

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2. On the basis of the complaint lodged by one Shajahan alleging that on 9.2.2007 at about 10.00 hours, when he was proceeding to his friends' house, the detenu suddenly snatched his hand bag and since he protested, the detenu brandished his knife and threatened to stab him and also threatened the public, who came to his rescue, that if anybody approaches him they would be killed, resulting in the people ran helter shelter and traffic dislocation, a case in Crime No.150 of 2007 was registered against the detenu on the file of B-11 Saibaba Colony Police Station for the offence punishable under Section 392 I.P.C. and the detenu was arrested and produced before the Court for judicial custody.

3. Taking into consideration the above said ground case as well as four adverse cases registered for offences punishable under Section 379 and 75 IPC., two of which on the file of B-12 Ukkadam police station in Crime Nos.41/2006 and 4/2007, one on the file of B-11 Saibaba Colony Police Station in Crime No.640/2006 and the other on the file of B-8 Variety Hall Road Police Station in Crime No.867 of 2006, having satisfied that there is a compelling necessity to detain the detenu in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order, ordered his detention dubbing him as a 'Goonda'.

4. The main contention of the learned counsel for the petitioner is that the order of detention was passed by the second respondent mechanically, even before formulating the grounds of detention. To substantiate the same, the learned counsel pointed out that the order of detention is dated 28.2.2007, whereas the grounds of detention were formulated only on 5.3.2007.

5. We have perused the records produced before us. It is apparent on the face of the records that the grounds of detention were formulated only on 5.3.2007, whereas as seen from the booklet produced by the learned Additional Public Prosecutor, the order of detention was passed on 28.2.2007, which, in our considered opinion, is not possible. Therefore, even before the formulation of the grounds of detention, the detention order was passed, which vitiates the order of detention and hence, we are inclined to allow this petition.

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In the result, the order of detention is quashed and the Habeas Corpus Petition is allowed. The detenu is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

sra

To

1. The Secretary,
   Government of Tamil Nadu,
   Prohibition & Excise Dept.,
   Fort St. George, Chennai-9.

2. The Commissioner of Police
   Coimbatore District, Coimbatore.

3. The Superintendent,
   Central Prison, Coimbatore.

4. The Joint Secretary to Government,
   Public (Law and Order) Department,
   Fort St.George, Chennai -9.

5. The Public Prosecutor
   High Court, Madras.

1 cc To Mr.R.Thanjan, Advocate, SR.67854.

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RVL 30.11.2007

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